

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**VALERIA HUDNALL**  
650 30<sup>th</sup> Street  
Richmond, CA 94804

Registered Nurse License No. 599489  
Public Health Nurse Certificate No. 78645

Respondent

Case No. 2012-616

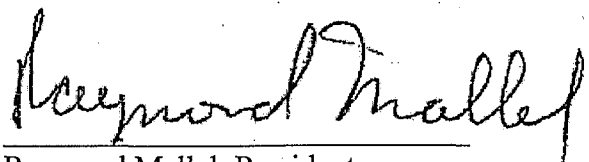
OAH No. 2012040863

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **November 7, 2012..**

IT IS SO ORDERED **October 8, 2012.**



Raymond Mallel, President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JUDITH J. LOACH  
Deputy Attorney General  
4 State Bar No. 162030  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5604  
6 Facsimile: (415) 703-5480  
E-mail: Judith.Loach@doj.ca.gov  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-616

13 **VALERIA HUDNALL**  
650 30th Street  
14 **Richmond, CA 94804**  
Registered Nurse License No. 599489  
15 **Public Health Nurse Certificate No. 78645**

OAH No. 2012040863

16 **STIPULATED SETTLEMENT AND**  
17 **DISCIPLINARY ORDER**

Respondent.

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN ("Complainant") is the Interim Executive Officer of the  
22 Board of Registered Nursing. She brought this action solely in her official capacity and is  
23 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by  
24 Judith J. Loach, Deputy Attorney General.

25 2. Respondent Valeria Hudnall ("Respondent") is represented in this proceeding by  
26 attorney Kathleen Morgan, Esq., whose address is: Law Offices of Kathleen Morgan  
27 788a Ulloa Street, San Francisco, CA 94127-1115.

28 ///

3. On or about May 16, 2002, the Board of Registered Nursing issued Registered Nurse License No. 599489 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2012-616 and will expire on May 31, 2014, unless renewed.

4. On or about September 21, 2010, the Board of Registered Nursing issued Public Health Nurse Certificate No. 78645 to Respondent. The Public Health Nurse Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 2012-616 and will expire on May 31, 2014, unless renewed.

## JURISDICTION

5. Accusation No. 2012-616 was filed before the Board of Registered Nursing (“Board”), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 10, 2012. Respondent timely filed her Notice of Defense contesting the Accusation.

6. A copy of Accusation No. 2012-616 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

7. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2012-616. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

8. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

#### CULPABILITY

10. Respondent admits the truth of each and every charge and allegation in Accusation No. 2012-616.

11. Respondent agrees that her Registered Nurse License is subject to discipline and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

#### CONTINGENCY

12. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

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1       Upon successful completion of probation, Respondent's license shall be fully restored.

2       3.     **Report in Person.** Respondent, during the period of probation, shall appear in  
3 person at interviews/meetings as directed by the Board or its designated representatives.

4       4.     **Residency, Practice, or Licensure Outside of State.** Periods of residency or  
5 practice as a registered nurse outside of California shall not apply toward a reduction of this  
6 probation time period. Respondent's probation is tolled, if and when she resides outside of  
7 California. Respondent must provide written notice to the Board within 15 days of any change of  
8 residency or practice outside the state, and within 30 days prior to re-establishing residency or  
9 returning to practice in this state.

10       Respondent shall provide a list of all states and territories where she has ever been licensed  
11 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide  
12 information regarding the status of each license and any changes in such license status during the  
13 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing  
14 license during the term of probation.

15       5.     **Submit Written Reports.** Respondent, during the period of probation, shall submit  
16 or cause to be submitted such written reports/declarations and verification of actions under  
17 penalty of perjury, as required by the Board. These reports/declarations shall contain statements  
18 relative to Respondent's compliance with all the conditions of the Board's Probation Program.  
19 Respondent shall immediately execute all release of information forms as may be required by the  
20 Board or its representatives.

21       Respondent shall provide a copy of this Decision to the nursing regulatory agency in every  
22 state and territory in which she has a registered nurse license.

23       6.     **Function as a Registered Nurse.** Respondent, during the period of probation, shall  
24 engage in the practice of registered nursing in California for a minimum of 24 hours per week for  
25 6 consecutive months or as determined by the Board.

26       For purposes of compliance with the section, "engage in the practice of registered nursing"  
27 may include, when approved by the Board, volunteer work as a registered nurse, or work in any  
28 non-direct patient care position that requires licensure as a registered nurse.

1 The Board may require that advanced practice nurses engage in advanced practice nursing  
2 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

3 If Respondent has not complied with this condition during the probationary term, and  
4 Respondent has presented sufficient documentation of her good faith efforts to comply with this  
5 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
6 extension of Respondent's probation period up to one year without further hearing in order to  
7 comply with this condition. During the one year extension, all original conditions of probation  
8 shall apply.

9 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain  
10 prior approval from the Board before commencing or continuing any employment, paid or  
11 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
12 performance evaluations and other employment related reports as a registered nurse upon request  
13 of the Board.

14 Respondent shall provide a copy of this Decision to her employer and immediate  
15 supervisors prior to commencement of any nursing or other health care related employment.

16 In addition to the above, Respondent shall notify the Board in writing within seventy-two  
17 (72) hours after she obtains any nursing or other health care related employment. Respondent  
18 shall notify the Board in writing within seventy-two (72) hours after she is terminated or  
19 separated, regardless of cause, from any nursing, or other health care related employment with a  
20 full explanation of the circumstances surrounding the termination or separation.

21 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding  
22 Respondent's level of supervision and/or collaboration before commencing or continuing any  
23 employment as a registered nurse, or education and training that includes patient care.

24 Respondent shall practice only under the direct supervision of a registered nurse in good  
25 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods  
26 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are  
27 approved.

28 Respondent's level of supervision and/or collaboration may include, but is not limited to the

1 following:

2 (a) Maximum - The individual providing supervision and/or collaboration is present in  
3 the patient care area or in any other work setting at all times.

4 (b) Moderate - The individual providing supervision and/or collaboration is in the patient  
5 care unit or in any other work setting at least half the hours Respondent works.

6 (c) Minimum - The individual providing supervision and/or collaboration has person-to-  
7 person communication with Respondent at least twice during each shift worked.

8 (d) Home Health Care - If Respondent is approved to work in the home health care  
9 setting, the individual providing supervision and/or collaboration shall have person-to-person  
10 communication with Respondent as required by the Board each work day. Respondent shall  
11 maintain telephone or other telecommunication contact with the individual providing supervision  
12 and/or collaboration as required by the Board during each work day. The individual providing  
13 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to  
14 patients' homes visited by Respondent with or without Respondent present.

15 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any  
16 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,  
17 or for an in-house nursing pool.

18 Respondent shall not work for a licensed home health agency as a visiting nurse unless the  
19 registered nursing supervision and other protections for home visits have been approved by the  
20 Board. Respondent shall not work in any other registered nursing occupation where home visits  
21 are required.

22 Respondent shall not work in any health care setting as a supervisor of registered nurses.  
23 The Board may additionally restrict Respondent from supervising licensed vocational nurses  
24 and/or unlicensed assistive personnel on a case-by-case basis.

25 Respondent shall not work as a faculty member in an approved school of nursing or as an  
26 instructor in a Board approved continuing education program.

27 Respondent shall work only on a regularly assigned, identified and predetermined  
28 worksite(s) and shall not work in a float capacity.



1 If Respondent is working or intends to work in excess of 40 hours per week, the Board may  
2 request documentation to determine whether there should be restrictions on the hours of work.

3 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and  
4 successfully complete a course(s) relevant to the practice of registered nursing no later than six  
5 months prior to the end of her probationary term.

6 Respondent shall obtain prior approval from the Board before enrolling in the course(s).  
7 Respondent shall submit to the Board the original transcripts or certificates of completion for the  
8 above required course(s). The Board shall return the original documents to Respondent after  
9 photocopying them for its records.

10 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its  
11 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the  
12 amount of \$7,000.00. Respondent shall be permitted to pay these costs in a payment plan  
13 approved by the Board, with payments to be completed no later than three months prior to the end  
14 of the probation term.

15 If Respondent has not complied with this condition during the probationary term, and  
16 Respondent has presented sufficient documentation of her good faith efforts to comply with this  
17 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
18 extension of Respondent's probation period up to one year without further hearing in order to  
19 comply with this condition. During the one year extension, all original conditions of probation  
20 will apply.

21 12. **Violation of Probation.** If Respondent violates the conditions of her probation, the  
22 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order  
23 and impose the stayed discipline (revocation/suspension) of Respondent's license.

24 If during the period of probation, an accusation or petition to revoke probation has been  
25 filed against Respondent's license or the Attorney General's Office has been requested to prepare  
26 an accusation or petition to revoke probation against Respondent's license, the probationary  
27 period shall automatically be extended and shall not expire until the accusation or petition has  
28 been acted upon by the Board.

1       13.   **License Surrender.** During Respondent's term of probation, if she ceases practicing  
2 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,  
3 Respondent may surrender her license to the Board. The Board reserves the right to evaluate  
4 Respondent's request and to exercise its discretion whether to grant the request, or to take any  
5 other action deemed appropriate and reasonable under the circumstances, without further hearing.  
6 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be  
7 subject to the conditions of probation.

8       Surrender of Respondent's license shall be considered a disciplinary action and shall  
9 become a part of Respondent's license history with the Board. A registered nurse whose license  
10 has been surrendered may petition the Board for reinstatement no sooner than the following  
11 minimum periods from the effective date of the disciplinary decision:

12       (1)     Two years for reinstatement of a license that was surrendered for any reason other  
13 than a mental or physical illness; or

14       (2)     One year for a license surrendered for a mental or physical illness.

15       14.   **Physical Examination.** Within 45 days of the effective date of this Decision,  
16 Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician  
17 assistant, who is approved by the Board before the assessment is performed, submit an  
18 assessment of the Respondent's physical condition and capability to perform the duties of a  
19 registered nurse, including a determination as set forth below in the condition titled "Rule-Out  
20 Substance Abuse Assessment." Such an assessment shall be submitted in a format acceptable to  
21 the Board. If medically determined, a recommended treatment program will be instituted and  
22 followed by the Respondent with the physician, nurse practitioner, or physician assistant  
23 providing written reports to the Board on forms provided by the Board.

24       If Respondent is determined to be unable to practice safely as a registered nurse, the  
25 licensed physician, nurse practitioner, or physician assistant making this determination shall  
26 immediately notify the Board and Respondent by telephone, and the Board shall request that the  
27 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall  
28 immediately cease practice and shall not resume practice until notified by the Board. During this

1 period of suspension, Respondent shall not engage in any practice for which a license issued by  
2 the Board is required until the Board has notified Respondent that a medical determination  
3 permits Respondent to resume practice. This period of suspension will not apply to the reduction  
4 of this probationary time period.

5 If Respondent fails to have the above assessment submitted to the Board within the 45-day  
6 requirement, Respondent shall immediately cease practice and shall not resume practice until  
7 notified by the Board. This period of suspension will not apply to the reduction of this  
8 probationary time period. The Board may waive or postpone this suspension only if significant,  
9 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
10 by Respondent to obtain the assessment, and a specific date for compliance must be provided.  
11 Only one such waiver or extension may be permitted.

12 **15. Mental Health Examination.** Respondent shall, within 45 days of the effective date  
13 of this Decision, have a mental health examination including psychological testing as appropriate  
14 to determine her capability to perform the duties of a registered nurse, including a determination  
15 as set forth below in the condition titled "Rule-Out Substance Abuse Assessment." The  
16 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
17 practitioner approved by the Board. The examining mental health practitioner will submit a  
18 written report of that assessment and recommendations to the Board. All costs are the  
19 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a  
20 result of the mental health examination will be instituted and followed by Respondent.

21 If Respondent is determined to be unable to practice safely as a registered nurse, the  
22 licensed mental health care practitioner making this determination shall immediately notify the  
23 Board and Respondent by telephone, and the Board shall request that the Attorney General's  
24 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease  
25 practice and may not resume practice until notified by the Board. During this period of  
26 suspension, Respondent shall not engage in any practice for which a license issued by the Board  
27 is required, until the Board has notified Respondent that a mental health determination permits  
28 Respondent to resume practice. This period of suspension will not apply to the reduction of this

1 probationary time period.

2 If Respondent fails to have the above assessment submitted to the Board within the 45-day  
3 requirement, Respondent shall immediately cease practice and shall not resume practice until  
4 notified by the Board. This period of suspension will not apply to the reduction of this  
5 probationary time period. The Board may waive or postpone this suspension only if significant,  
6 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
7 by Respondent to obtain the assessment, and a specific date for compliance must be provided.  
8 Only one such waiver or extension may be permitted.

9 **16. Rule-Out Substance Abuse Assessment.** If the examiner conducting the physical  
10 and/or mental health examination determines that the respondent is dependent upon drugs or  
11 alcohol, or has had problems with drugs or alcohol (i.e. drug dependence in remission or alcohol  
12 dependence in remission), that might reasonably affect the safe practice of nursing, then the  
13 respondent must further comply with the following additional terms and conditions of probation:

14 **A. Participate in Treatment/Rehabilitation Program for Chemical**

15 **Dependence.** Respondent, at her expense, shall successfully complete during the  
16 probationary period or shall have successfully completed prior to commencement  
17 of probation a Board-approved treatment/rehabilitation program of at least six  
18 months duration. As required, reports shall be submitted by the program on forms  
19 provided by the Board. If Respondent has not completed a Board-approved  
20 treatment/rehabilitation program prior to commencement of probation,  
21 Respondent, within 45 days from the effective date of the decision, shall be  
22 enrolled in a program. If a program is not successfully completed within the first  
23 nine months of probation, the Board shall consider Respondent in violation of  
24 probation.

25 Based on Board recommendation, each week Respondent shall be required  
26 to attend at least one, but no more than five 12-step recovery meetings or  
27 equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse  
28 support group as approved and directed by the Board. If a nurse support group is

not available, an additional 12-step meeting or equivalent shall be added.

Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

**B. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall completely abstain from the possession, injection or consumption by any route of all controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the Respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of Respondent's history of substance abuse and will coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis Respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

**C. Submit to Tests and Samples.** Respondent, at her expense, shall

1 participate in a random, biological fluid testing or a drug screening program which  
2 the Board approves. The length of time and frequency will be subject to approval  
3 by the Board. Respondent is responsible for keeping the Board informed of  
4 Respondent's current telephone number at all times. Respondent shall also ensure  
5 that messages may be left at the telephone number when she is not available and  
6 ensure that reports are submitted directly by the testing agency to the Board, as  
7 directed. Any confirmed positive finding shall be reported immediately to the  
8 Board by the program and Respondent shall be considered in violation of  
9 probation.

10 In addition, Respondent, at any time during the period of probation, shall  
11 fully cooperate with the Board or any of its representatives, and shall, when  
12 requested, submit to such tests and samples as the Board or its representatives may  
13 require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other  
14 controlled substances.

15 If Respondent has a positive drug screen for any substance not legally  
16 authorized and not reported to the coordinating physician, nurse practitioner, or  
17 physician assistant, and the Board files a petition to revoke probation or an  
18 accusation, the Board may suspend Respondent from practice pending the final  
19 decision on the petition to revoke probation or the accusation. This period of  
20 suspension will not apply to the reduction of this probationary time period.

21 If Respondent fails to participate in a random, biological fluid testing or  
22 drug screening program within the specified time frame, Respondent shall  
23 immediately cease practice and shall not resume practice until notified by the  
24 Board. After taking into account documented evidence of mitigation, if the Board  
25 files a petition to revoke probation or an accusation, the Board may suspend  
26 Respondent from practice pending the final decision on the petition to revoke  
27 probation or the accusation. This period of suspension will not apply to the  
28 reduction of this probationary time period.

1 D. **Therapy or Counseling Program.** Respondent, at her expense, shall  
2 participate in an on-going counseling program until such time as the Board  
3 releases her from this requirement and only upon the recommendation of the  
4 counselor. Written progress reports from the counselor will be required at various  
5 intervals.

6 ACCEPTANCE

7 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
8 discussed it with my attorney, Kathleen Morgan. I understand the stipulation and the effect it will  
9 have on my Registered Nurse License, and Public Health Nurse Certificate. I enter into this  
10 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree  
11 to be bound by the Decision and Order of the Board of Registered Nursing.

12  
13 DATED: 6-14-2012

Valeria Hudnall  
VALERIA HUDNALL  
Respondent

15 I have read and fully discussed with Respondent Valeria Hudnall the terms and conditions  
16 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve  
17 its form and content.

18 DATED: 6/14/2012

Kathleen Morgan  
KATHLEEN MORGAN, ESQ.  
Attorney for Respondent

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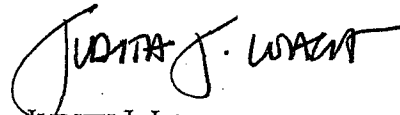
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated:

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
FRANK H. PACOE  
Supervising Deputy Attorney General



JUDITH J. LOACH  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 2012-616**

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JUDITH J. LOACH  
Deputy Attorney General  
4 State Bar No. 162030  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5604  
6 Facsimile: (415) 703-5480  
E-mail: Judith.Loach@doj.ca.gov  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2012-0616**

12 **VALERIA HUDNALL**  
650 30th Street  
13 **Richmond, CA 94804**  
Registered Nurse License No. 599489  
14 **Public Health Nurse Certificate No. 78645**

**ACCUSATION**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing.

21 2. On or about May 16, 2002, the Board of Registered Nursing issued Registered Nurse  
22 License Number 599489 to Valeria Hudnall ("Respondent"). The Registered Nurse License was  
23 in full force and effect at all times relevant to the charges brought herein and will expire on May  
24 31, 2014, unless renewed.

25 3. On or about September 21, 2010, the Board of Registered Nursing issued Public  
26 Health Nurse Certificate Number 78645 to Respondent. The Public Health Nurse Certificate was  
27 in full force and effect at all times relevant to the charges brought herein and will expire on May  
28 31, 2014, unless renewed.

## JURISDICTION

4. This Accusation is brought before the Board of Registered Nursing, Department of Consumer Affairs under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

7. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

## STATUTES AND REGULATIONS

8. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

9. California Code of Regulations, title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

10. California Code of Regulations, title 16, section 1443, states:

"As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5."

11. California Code of Regulations, title 16, section 1443.5 states:

"A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

"(1) Formulates a nursing diagnosis through observation of the client's physical condition and behavior, and through interpretation of information obtained from the client and others, including the health team.

"(2) Formulates a care plan, in collaboration with the client, which ensures that direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and for disease prevention and restorative measures.

"(3) Performs skills essential to the kind of nursing action to be taken, explains the health treatment to the client and family and teaches the client and family how to care for the client's health needs.

...

"(5) Evaluates the effectiveness of the care plan through observation of the client's physical condition and behavior, signs and symptoms of illness, and reactions to treatment and through communication with the client and health team members, and modifies the plan as needed."

...

12. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or

1 administer to another, any controlled substance as defined in Division 10 (commencing with  
2 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as  
3 defined in Section 4022.

4 ...  
5 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any  
6 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this  
7 section."

8 13. Code section 4022 states:

9 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-  
10 use in humans or animals, and includes the following:

11 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without  
prescription," "Rx only," or words of similar import.

12 (b) Any device that bears the statement: "Caution: federal law restricts this device to  
13 sale by or on the order of a -----," "Rx only," or words of similar import, the blank  
14 to be filled in with the designation of the practitioner licensed to use or order use of  
the device.

15 (c) Any other drug or device that by federal or state law can be lawfully dispensed  
only on prescription or furnished pursuant to Section 4006.

#### 16 COST RECOVERY

17 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
18 administrative law judge to direct a licensee found to have committed a violation or violations of  
19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
20 enforcement of the case.

#### 21 CONTROLLED SUBSTANCES

22 15. "Demerol" is a narcotic analgesic prescribed for the treatment of moderate to severe  
23 pain. It is classified as a Schedule II controlled substance pursuant to Health and Safety Code  
24 section 11055(c)(17) and a dangerous drug pursuant to Business and Professions Code section  
25 4022.

26 16. "Fentanyl" is a potent synthetic opioid for the treatment of moderate to severe pain.  
27 It is classified as a Schedule II controlled substance pursuant to Health and Safety Code section  
28 11055(c)(8) and a dangerous drug pursuant to Business and Professions Code section 4022.

1 17. "Percocet" is a potent synthetic opioid containing oxycodone, used for the treatment  
2 of moderate to severe pain. It is classified as a Schedule II controlled substance pursuant to  
3 Health and Safety Code section 11055(b)(1)(M) and a dangerous drug pursuant to Business and  
4 Professions Code section 4022.

5 18. "Versed" is a medication used prior to surgery to cause drowsiness, relieve anxiety  
6 and prevent memory of a surgical event. It is classified as a Schedule IV controlled substance  
7 pursuant to Health and Safety Code section 11057(d)(21) and a dangerous drug pursuant to  
8 Business and Professions Code section 4022.

9 19. "Vicodin" is a narcotic used for the treatment of moderate pain. It is classified as a  
10 Schedule III controlled substance pursuant to Health and Safety Code section 11056(e)(4) and a  
11 dangerous drug pursuant to Business and Professions Code section 4022.

12 FIRST CAUSE FOR DISCIPLINE

13 (Unprofessional Conduct – Failing To Document Disposition of Controlled Substances)

14 20. Respondent is subject to discipline under Code section 2762(e) for failing to  
15 document the disposition of controlled substances withdrawn for patients under her care while  
16 employed as a registered nurse in the post-anesthesia care unit ("PACU") at the Santa Rosa  
17 Surgery Center ("Surgery Center") in Santa Rosa, California. The facts in support of this cause  
18 for discipline are as follows:

19 **Patient B:**

20 a. On November 4, 2009, at approximately 4:10 p.m., Respondent withdrew one (1)  
21 tablet of Percocet for Patient B. Respondent failed to account for the disposition of this  
22 medication.

23 **Patient G:**

24 a. On November 12, 2009, at approximately 1:30 p.m., Respondent removed a two (2)  
25 milligram vial of Versed for Patient F. She administered one (1) milligram, but failed to account  
26 for the disposition of the remaining one (1) milligram of Versed.

27 ///

28 ///

**Patient H:**

a. On November 17, 2009, at approximately 10:30 a.m., Respondent removed a 100 microgram vial of Fentanyl for Patient H. She administered twenty-five (25) micrograms at 10:40 a.m., and another twenty-five (25) micrograms at 10:48 a.m. On the PACU Controlled Substance Accountability Form, Respondent documented wasting twenty-five (25) micrograms of Fentanyl. There was no documentation as to the disposition of the remaining twenty-five (25) micrograms of Fentanyl.

**Patient I:**

a. On November 17, 2009, at approximately 9:30 a.m., Respondent withdrew two (2) tablets of Vicodin for Patient I. On the PACU Controlled Substance Accountability Form, Respondent documented that she administered one and one-half (1.5) tablets, with no documentation as to the disposition of the remaining half (0.5) tablet of Vicodin.

**Patient L:**

a. On December 2, 2009, at 12:55 p.m., Respondent withdrew two (2) tablets of Percocet for Patient L. There was no documentation as to the disposition of this medication.

**Patient Q:**

a. On December 22, 2009, Respondent at 10:00 a.m., withdrew two (2) tablets of Percocet for Patient Q. At 11:29 a.m., Respondent noted that she administered Percocet, leaving blank the actual dose of medication administered.

**Patient T:**

a. On December 31, 2009, Respondent withdrew one (1) vial of Fentanyl containing 100 micrograms. On the PACU Controlled Substance Accountability Form, Respondent failed to record the total dose of Fentanyl administered.

b. Respondent at 1:40 p.m., withdrew one (1) tablet of Percocet for Patient T. On the PACU Controlled Substance Accountability Form she documented that she had "dropped" the withdrawn tablet of Percocet. At 2:00 p.m., she withdrew another tablet of Percocet for Patient T. However, Respondent documented administering the medication at 1:45 p.m., 15 minutes prior to withdrawing the medication.

1           **Patient U:**

2           a.     On January 6, 2010, Patient U's physician ordered Fentanyl twenty-five (25)  
3 micrograms intravenously every ten (10) minutes, a total of four (4) doses for a pain level of 5 to  
4 10. Respondent withdrew a 100 microgram vial of Fentanyl at 10:20 a.m., and wasted fifty (50)  
5 micrograms of this medication. She administered twenty-five (25) micrograms at 10:25 a.m., and  
6 again at 10:36 a.m., accounting for a total dose of fifty (50) micrograms. Respondent documented  
7 that she administered another twenty-five (25) micrograms of Fentanyl at 10:45 a.m. and again at  
8 11:05 a.m. However, she did not withdraw the second vial of the Fentanyl until 11:30 a.m.

9           b.     Respondent withdrew a total of 200 micrograms of Fentanyl for administration to  
10 Patient U. She wasted fifty (50) micrograms, and administered a total dose of 125 micrograms of  
11 Fentanyl. There was no accounting for the disposition of the remaining twenty-five (25)  
12 micrograms of Fentanyl.

13           **Patient V:**

14           a.     On January 8, 2010, Patient V's physician ordered Fentanyl twenty-five (25)  
15 micrograms intravenously every five (5) minutes, a total of four (4) doses for a pain level of 2 to  
16 8. Respondent withdrew a 100 microgram vial of Fentanyl at 11:52 a.m., and administered  
17 twenty-five (25) micrograms of this medication to Patient V. There was no accounting for the  
18 disposition of the remaining 75 micrograms of Fentanyl.

19                               SECOND CAUSE FOR DISCIPLINE

20                               (Gross Negligence - Administration of Controlled Substances In Contravention  
21   Of Physician Orders)

22           21.    Respondent is subject to discipline under Code section 2762(a)(1), for gross  
23 negligence in that while employed as a registered nurse in the PACU at the Surgery Center, she  
24 administered controlled substances in contravention of physician orders. The facts in support of  
25 this cause for discipline are as follows:

26           **Patient D:**

27           a.     On November 11, 2009, Patient D's physician wrote an order for Fentanyl fifty (50)  
28 micrograms to be given intravenously every three (3) minutes, repeated four (4) times for a pain



1 level of 4 to 10.<sup>1</sup> Respondent at 10:10 a.m., administered 100 micrograms of Fentanyl  
2 intravenously to Patient D.

3 **Patient E:**

4 a. Patient E's physician ordered Percocet one (1) tablet for a pain level of 4 to 10. At  
5 9:14 a.m., Respondent administered one (1) tablet of Percocet to Patient E, with a notation that  
6 the patient's pain level was "0" prior to the administration of this medication.

7 **Patient L:**

8 a. Patient L's physician ordered Percocet two (2) tablets for a pain level of 1 to 10. At  
9 12:55 p.m., Respondent withdrew two (2) tablets of Percocet for administration to Patient L.  
10 Prior to withdrawing this medication the patient's pain level was documented by Respondent as  
11 being "0" at the following times: 12:40 a.m., 12:45 a.m., and 12:50 a.m.

12 **Patient P:**

13 a. Patient P's physician at 4:35 p.m., ordered Fentanyl fifty (50) micrograms to be  
14 administered intravenously. Respondent documented that at 4:35 p.m., she administered 100  
15 micrograms of Fentanyl intravenously to Patient P.

16 **Patient Q:**

17 a. Respondent administered twenty-five (25) micrograms of Fentanyl intravenously to  
18 Patient Q at 10:50 a.m., but failed to document the effect, if any, that this medication had on  
19 reducing the patient's level of pain.

20 b. Respondent administered twenty-five (25) micrograms of Fentanyl intravenously to  
21 patient Q at 11:04 a.m., without clear documentation as to the effect, if any, that this medication  
22 had on reducing the patient's level of pain.

23 **Patient S:**

24 a. Patient S's physician ordered Fentanyl twenty-five (25) micrograms to be  
25 administered intravenously every ten (10) minutes times three (3) doses for a pain level from 6 to  
26

27 <sup>1</sup> The standard rating for a patient's pain is as follows: "0" for no pain; "1 to 3" for mild  
28 pain; "3 to 6" for moderate pain; and "7 through 10" for severe pain.

10. Respondent at 3:20 p.m., administered twenty (25) micrograms to Fentanyl intravenously when she documented that the patient had a pain level of 3.

b. Respondent at 3:40 p.m., administered twenty-five (25) micrograms to Fentanyl intravenously when the patient had a noted pain level of 2 to 3.

**Patient U:**

a. On January 6, 2010, Patient U's physician ordered Fentanyl twenty-five (25) micrograms intravenously every ten (10) minutes, a total of four (4) doses for a pain level of 5 to 10. Respondent administered a total of 125 micrograms of Fentanyl.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Administration Of Controlled Substances  
Without Physician Order)

22. Respondent is subject to discipline under Code section 2762(a) for administering controlled substances to patients without physician orders while employed as a registered nurse in the PACU at the Surgery Center. The facts in support of this cause for discipline are as follows:

**Patient C:**

a. On November 5, 2009, Respondent obtained a verbal order from Patient C's physician for Demerol twenty-five (25) milligrams to be administered intravenously and Demerol seventy-five (75) milligrams to be administered intramuscularly. At 10:15 a.m., Respondent administered the medications. The verbal order was never co-signed by the physician.

**Patient D:**

a. On November 11, 2009, Patient D's physician ordered Fentanyl fifty (50) micrograms to be given intravenously every three (3) minutes, repeated four (4) times for a pain level of 4 to 10.<sup>2</sup> Respondent at 10:10 a.m., administered 100 micrograms of Fentanyl intravenously to Patient D.

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<sup>2</sup> The standard rating for a patient's pain is as follows: "1 to 3" for mild pain; "3 to 6" for moderate pain; and "7 through 10" for severe pain.

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3 **Patient O:**

4 a. On December 9, 2009, Respondent withdrew two (2) tablets of Percocet for Patient O  
5 and administered the medication at 2:34 p.m. Respondent failed to document on the PACU  
6 Record Patient O's level of pain, if any, 15 minutes after being administered the Percocet.

7 PRAYER

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
9 and that following the hearing, the Department of Consumer Affairs issue a decision:

10 1. Revoking or suspending Registered Nurse License Number 599489, issued to Valeria  
11 Hudnall;

12 2. Revoking or suspending Public Health Nurse Certificate Number 78645, issued to  
13 Valeria Hudnall;

14 3. Ordering Valeria Hudnall to pay the Board of Registered Nursing the reasonable costs  
15 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
16 section 125.3; and

17 4. Taking such other and further action as deemed necessary and proper.

18 DATED: April 10, 2012

19 Louise R. Bailey  
20 LOUISE R. BAILEY, M.ED., RN  
21 Interim Executive Officer  
22 Board of Registered Nursing  
23 State of California  
24 Complainant

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